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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 16 March 1946, 1000 to 1300, Lord Justice Lawrence, presiding.

HERMANN WILHELM GOERING - resumed.

DIRECT EXAMINATION - continued.

DR. STAHMER: Mr. President, I have just one more question which I have not asked directly before, that is, of Goering to maintain peace in the months of July and August, 1939, before the outbreak of the war. I have several reasons for which I have not previously asked that question, as I had the intention of asking Goering only after the questioning of the witness Dahlerus about this, because Dahlerus had not arrived at that time, and I wanted to avoid any interruption is the reason I have not called Dahlerus before.

I would like to have your decision whether I could question the defendant Goering on this point again after having examined Dahlerus, who has arrived in the meantime. For reasons of saving time I consider this is important, because in my opinion I would save quite a number of questions thereby, or, whether I can hear him after the cross examination as to this question. If this is granted I shall put the question to him, but it seems to me more important to put this question after examining Dahlerus, who, as I say, has arrived in the meantime.

SIR DAVID MAXWELL-FYFE: Your Honor, perhaps I can help on this point. If the Tribunal could consider this application without its establishing a precedent in other cases, I should have no objection for this reason, that with Dahlerus we are to understand that some one will have to go into the matter in detail as to the events that happened within the last fortnight when it might well be a saving of time if that detail were only gone into once, and that it would be rather difficult for Dr. Stahmer to examine the witness Dahlerus humself without going into the details. While I feel strongly with the Tribunal the defendant should not be recalled except in the most exceptional circumstances, I think in this case it might conceivably bring about a shortening of time.

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THE PRESIDENT: Do you mean that if the witness Dahlerus were called, it might obviate the necessity of calling the defendant Goering in reference to those events?

SIR DAVID MAXWELL-FYFE: It might obviate that necessity, and it would in any case mean, I should think, that the defendant Goering would only have to answer very few questions, but if it were opened up now, it would be difficult to avoid both witnesses covering the same ground.

THE PRESIDENT: The Tribunal is only concerned with the saving of time, and as the Tribunal is informed by the defendant's counsel, Dr. Stahmer, that it may save time, the Tribunal is prepared to adopt that course, and to allow the witness Dahlerus to be called before these questions are put to the defendant Goering, but it must not be taken as a precedent for the recalling of any witnesses.

DR. STAHMER: Thank you. Thank you, sir. Then I have no more questions at this time to ask the defendant.

DR. OTTO NELTE: Counsel for the defendant Keitel.

Q The prosecution in its presentation has frequently mentioned the defendant Keitel in connection with orders, directives, and so forth. They were always quoted as Keitel's orders, Keitel's decrees, and so forth, and the prosecution based its indictment against the defendant Keitel on these things. I would like to clarify by questioning you on the position of Field Marshall Keitel; what was his authority, and what responsibility he had as chief of the OKW, or in any other official function. Do you know of that decree of 4 February 1938, which I hand you, by which the OKW was created, and Keitel was appointed?

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A Of course I know that decree because I have participated in formulating it since the Fuehrer discussed all these reorganizations of his entire staff with me.

Q Do you know the diagram which has been submitted by the Prosecution concerning the organization of the German Armed Forces?

A Yes, I remember that was here on the board.

Q I will have it shown to you. (Witness was handed document.)

Do you consider the arrangement of this diagram with the placing of the OKW, do you consider that correct?

A No, it is not correct. On top you can see the words "Commander in Chief of the Wehrmacht," then a line and then below "Chief of the High Command of the Armed Forces," and from there on there are various lines, three lines to the Commanders in Chief of the Army, the Navy and the Air Force. That is wrong.

The High Command of the Armed Forces, and thereby the Chief of the High Command of the Armed Forces, should not be placed in that manner, but placed on the side, that is to say, the three Commanders in Chief of the parts of the Armed Forces, were immediately and without middle-men subordinate to the Fuehrer as the Commander in Chief of the Armed Forces and in no subordination to the High Command of the Armed Forces or the Chief of the High Command of the Armed Forces.

The Fuehrer at that time, in February, reorganized his entire staff leadership, that is to say, there existed in his functions as Chief of State, as part of that function, the State Chancellery, and on that day he made Meissner, who was then Secretary of State, State Minister, and established the State Chancellery as his personal office, which was concerned with the leadership of the State, that is to say, concerned with all affairs which concerned the Chief of State and also in relation with the protocol department of the Foreign Office. As Reich Chancellor and Chief of the Government, he had established that his personal machinery would be the Reich Chancellory and the State Secretary of the Reich Chancellery became on the same day Reich

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Minister and Chief of the Chancellery. It was his job to maintain liaison with the Ministry and the entire machinery of the Government of the Reich. It was his function as assistant to the Fuehrer not to give orders but to carry out orders and decrees given by the Fuehrer.

Thirdly, the Fuehrer, as leader of the Party, had at his disposal the Party Chancellery of which the deputy of the Fuehrer, Rudolf Hess, was in charge at that time and who, as far as his person was concerned, had a higher position within that machinery. After he left, Bormann did not become deputy of the Chief of the Party, but Chief of the Party Chancellery.

As the fourth organization, there was the private office, Privatekanzklei of the Fuehrer, again with the Reich leader as Chief of that private office and his military cabinet or military staff, or as it used to be expressed before, the Maison Militaire (Military House), became the High Command of the Armed Forces, the Wehrmacht.

This reorganization was necessary, because after the retirement of Blomberg as Minister of War no new Minister of War had been nominated, and the Fuehrer, since as Chief of State he was at any rate Commander in Chief of the Armed Forces, was now determined, not only formally to be this Chief of the Armed Forces, but to execute that function in fact. At that moment he needed an instrument, a staff organization, and that should be represented by the High Command of the Armed Forces, and Keitel subsequently was appointed Chief of the High Command of the Armed Forces.

In Germany, in a military way, the word "Chief" has a different meaning than Commander in Chief. The responsibility and right to give orders rests with the Commander in Chief, or the Higher Commander in Chief. His assistant in the staff leadership, the working out and the liaison concerning plans is always the Chief of the respective staffs. Thus, General or Colonel-General Keitel was also Chief of the Military Staff of the Commander in Chief, called High Command of the Wehrmacht. That meant for one that the entire machinery of the

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Staff of the Commander in Chief, as far as military organization, military administration was concerned, and as far as military leadership, that is to say, strategy was concerned, and there the Fuehrer wanted to see his strategic plans worked out, and for that there was in the High Command, as a strategic department of the Wehrmacht the Armed Forces Leadership Staff, which had been created.

Q If I understand you correctly, OKW means translated the High Command of the Armed Forces, Wehrmacht, but these words have been apparently used in different ways; first as the Staff of the High Command of the Armed Forces, well, just as we call Keitel the Chief of the OKW and then as the OKW the Office of the Commander in Chief of the Armed Forces, that is to say, Hitler, is that right?

A That is correct, as such, but it is not very clear. The Commander in Chief of the Armed Forces is the Staff Department of the Commander in Chief of the Armed Forces, and in the same way as I, myself, as Commander in Chief of the Air Force had my general staff on one side and my chief adjutants on the other side, I formed my staff with which I worked, in the same way that the High Command with the Fuehrer as Supreme Commander was same kind of working machinery. The Chief of my general staff also could not give any direct orders to the Commander in Chief of the Air Force. The orders could only be issued upon command of the Supreme Commander, signed "I.A.," that is to say, "Im Auftrag" (by order).

The Chief of Staff had no command function except to the members of his immediate office and to a few administrative organizations which belonged to that staff. An order or a command or directive from the High Command of the Armed Forces, for instance, to me as Commander in Chief of the Air Force, was only possible in the following form. The letter began, "The Fuehrer has ordered . . " or "Upon command of the Fuehrer, I hereby inform you . . " May I express it quite emphatically. At one time I told Colonel General Keitel, "I am only bound by orders given by the Fuehrer and only decrees or

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orders which are presented to me and signed by Adolf Hitler will be complied with. Directives or orders which start, 'Upon command of the Fuehrer,' or 'By order of the Fuehrer' go to my chief of staff and are reported to me orally by pointing out the most important elements. Whether they are signed, 'By command of the Fuehrer, Keitel, Colonel General,' or 'Meier, P.F.C.' doesn't make any difference to me. But if they are signed by direct command from you which you want to give me, then you may save time and paper because both have no bearing for me. I am Supreme Commander and immediately subordinate to the Fuehrer and the Fuehrer only."

Q Do you know whether Hitler on one side and whether the commanders of the branches of the armed forces, on the other side, whether they took into consideration these conditions of command or whether amongst the other elements of the armed forces there were different attitudes and conditions?

A Whether my colleagues told it as clearly to the Chief of the High Command as I did, I could not say, but that the two other Supreme Commanders did not permit anybody mixing into their commands and their rights is a matter of course.

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Q Does the same apply to Himmler as Chief of the SS?

A The SS was never subordinate to the High Command of the Armed Forces. There existed, since the beginning of the war, the Waffen SS divisions and corps. That was a purely fighting unit. It was subordinate tactically and strategically to the respective offices of the Army; as far as personnel and equipment were concerned, it was subordinate to Himmler, and he had nothing to do with the OKW. Here again, it could only happen that the Chief of the High Command of the Wehrmacht, with regard to the Waffen SS, transmitted orders or decrees from the Fuehrer.

On this occasion I should like to correct an error which occurred during the examination of Field Marshal Kesselring by Justice Jackson. Field Marshal Kesselring spoke of the Waffen SS as guard units. Then he was asked "Whom did they have to guard?" In speaking of the word "guard", we do not mean it the way it has been translated, as sentries, but in the opinion of the Field Marshal, that means just elite troops, just as in the Russian language there are guard corps. In the old Imperial Army there was a guard corps, and also formerly with other armies. The Waffen SS was not designed as a unit to guard anything, but was an elite unit as far as equipment and personnel were concerned, during the first years of the war.

Q I would like to ask you to tell me something about the official relations between Adolf Hitler and Field Marshal Keitel, that is to say, how these official relations were thought of by Hitler when he created the office of the OKW. That is to say, I should like to know: what was Keitel supposed to be and what was he really after 1938 in his official functions?

A I believe that I have just explained that.

Q I wanted to ask you, for instance, whether he was his advisor.

A Advisor is a disputable expression. I may take advice from somebody as to whether he thinks it will rain during the coming three hours if I want to go riding, but I may ask for advice also in important and decisive questions. That depends on the temperament and the attitude of the person who is willing to seek advice, and the one who wants to give advice.

In view of the dynamic personality of the Fuehrer, undesirable advice

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was not in order, and one had to be on very good terms with him. That is to say, one had to have great influence -- and I ask you to understand me correctly -- such as I had beyond doubt for many years in order to assist the Fuehrer in major questions not only by advice, but also by suggestions and even protests, without being asked. On the other hand, if this relation to the Fuehrer was not given, suggestions were brushed aside curtly wherever he had made his decisions, or where he did not wish to let the advisor reach a position where he could have influence on him.

Here I wish to say that the Chief of the OKW, in important and decisive questions, certainly was not an advisor. In current, everyday affairs, he may have been an advisor in the way that he may have suggested here and there what the Fuehrer would say to the various commanders, or that he could point out this or that question concerning problems of deployment. After all, advice by the Chief of the General Staff is still more important than advice fromthe chief of an organization or staff office. In strategic and tactical decisions, of course, the Chief of the General Staff would have some say. In other questions, it would be more the Chief of the Leadership Staff. Organizational questions were to be discussed with the Chief of the High Command primarily, because the Fuehrer himself, as I have explained before, had established several supreme offices. He had to limit himself in his signatures. It took weeks, sometimes, until one could get the necessary signatures for the Fuehrer, especially during the war, in view of the tremendous amount of work, so that the business of signatures was transferred to the respective staff offices. That explains why there was hardly any decree or order which the Fuehrer had given which was not signed by Keitel, who was very industrious.

Q Wasn't the job that Field Marshal Keitel had a very thankless one? I mean, frequently he came into a position where he had to mediate between the various offices which were under the Supreme Commander.

A That depended very much on the personalities. It goes without saying that if it cameto a clash between the Fuehrer and myself, or other determined supreme commanders, the Chief of the High Command was hit from both sides, stepped upon. He came between the two strong personalities; the one

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protested that in speaking to the Fuehrer, he had not done enough; the Fuehrer rejected him and said he himself would take care of it.

The task was certainly a very thankless one and a hard one, and I remember that once Field Marshal Keitel approached me and asked me whether I couldn't see to it that he be given a front-line command, that he would be satisfied, though a Field Marshal, with one division if he could only get away, because he was eating more rocks than bread. Whether thankless or appreciated did not make any difference as far as the task was concerned; he had to do his duty wherever the Fuehrer commanded it.

Q Are you aware in that connection Field Marshal Keitel was reproached that he could not get his personality through with the Fuehrer?

A This reproach was made by quite a number of supreme commanders of the Army, and groups of the Wehrmacht, and it was easy to make that reproach because they were far away from Adolf Hitler and they themselves did not have to make reports. I know that especially after the collapse, quite a number of generals took the position that Keitel had been a typical "yes-man." I can only say I should be interested personally if I could see those who considered themselves "no-men."

Q Was there ever, with respect to Hitler, any possibility of--

THE PRESIDENT: The Tribunal doesn't think -- at least I should like to ask you; what relevance do the charges against Keitel have to the gossip on the General Staff or any reproaches which may have been made to him by the General Staff? What has that got to do with the charges against Keitel?

DR. NELTE: If one wants to do justice to the defendant Keitel, that is to say, if one wants to try to establish what role he has played in the terrible tragedy, then that is only possible if one establishes clearly what his function was, his responsibility, and then, if one takes into consideration --

THE PRESIDENT: I know that perfectly well and we have spent three-quarters of an hour in hearing the defendant Goering describe what his relationship was and what his function was. What I asked you was what it had to do with this case, the criticisms or gossip of the General Staff about Keitel? I say we have

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spent three-quarters of an hour in hearing what the defendant Goering says his function was, and what his relationships with the Fuehrer, and nothing else.

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DR. NELTE: I have begun with the organization of the OKW. I wanted to determine the chain of command between the OKW and the chief of the OKW on the one hand and the parts of the Wehrmacht on the other, and then I have trie. to clarify the repsonsibility which as chief of the OKW following the will of hitler he had to have and how he executed these.

The gossip which the President has spoken of has only occurred, I believe, during the last few minutes, during the statements of the witness.

THE PRESIDENT: My interruption was made because you asked the Defendant a question about somebody being reproached for something or other by the other members of the General Staff, and that seems to me to be totally irrelevant.

DR. NELTE: The last question which I put was whether there had been any possibility of Field Marshal Keitel asking for his release from his position. May I assume that this question is relevant?

THE PRESIDENT: You may certainly ask that question, as to whether he asked to be relieved of his command.

THE DEFENDANT GOERING: If you please --

THE PRESIDENT: As a matter of fact, Dr. Nelte, that question was asked before, the question at which I interrupted you, and I have the answer written down, that Keitel asked for a command not even of a division.

DR. NELTE: That was the question which he put to Reich Marshal Goering. He came to him, Goering, and asked him. Now I want to ask whether there existed any possibility with Hitler of achieving a release.

A The question whether the General can ask to be relieved by the Fuehrer has played an important role in these proceedings generally. One has to distinguish between the two phases - peacetime and wartime.

During peacetime a General could ask for it, unless he was on a prominent and decisive position and very well known; if he was very well kno to the Fuehrer, that went without question. If he was in an important position and well-known to the Fuehrer, then the Fuehrer used his persuasion and appealed with all means at his disposal, if he so desired, that the man

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remain at his post. However, if a General had asked to be relieved by the Fuehrer and had given his reason that principally he was of a different opinion politically, then without a doubt it would have come, though not on the same say, to a retirement -- but at the same time it brought on an extraordinary suspicion by the Fuehrer for this personality.

In wartime conditions were entirely different. The General, just like any soldier, was told to carry out orders, and the Fuehrer generally, not only for Generals but for all important personalities of the state, had stated he did not desire to see any applications for retirement. He himself would decide if a person had to leave or not, and he personally could not retire if he wished, and he considered that to be desertion.

If, however, a General had submitted an application for retirement in wartime and that had been rejected, he certainly could not insist. If he did, he violated a law and could be accused of desertion.

Field Marshal Keitel could well say to the Fuehrer, "Please have me transferred to a different station, but the Fuehrer did not like to change the personalities in his immediate circle and in wartime -- that I know of him personally -- he would not have agreed to a change, particularly concerning Field Marshal Keitel, with whom he was used to working, unless the Field Marshal had become ill or unable to continue his duties.

Q Were these considerations which you have just mentioned also apparent when Field Marshal von Brauchitsch was retired?

A The case of Brauchitsch is very well known to me, because the Fuehrer had also discussed it at length with me previously.

From the beginning he was not decided whether he wanted to take over the command of the Army or leave it to somebody else. So we were discussing candidates for the succession. The Fuehrer at that moment did not agree with the leadership of the Army by the High Command of the Army on the Eastern Front. The Supreme Commander was Brauchitsch and the Chief of General Staff Halder. I suggested to the Fuehrer at first that he remove the Chief of the General Staff, because I thought he was the less capable.

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The Fuehrer wanted to di it first, then made a decision of his own and told me that he, the Fuehrer, was determined to assume the Supreme Command, in order to create order at the Eastern Front, and therefore it seemed more important to retire the Supreme Commander, although he agreed with me that the Chief of Staff was the weaker one. I suggested that both be sent home.

The Fuehrer called Brauchitsch, talked to him for two hours and asked him in unmistakable terms to retire.

Thus we see that the Fuehrer took the clear decision to retire the Supreme Commander of the Army, in order to assume, in person, supreme command over the Army, and from that time on the Fuehrer was not only Supreme Commander of the Armed Forces but also in fact Supreme Commander of the Army.

Q The Prosecution has produced evidence to prove that Field Marshal Keitel had been a member of the Reich Defense Council. We discussed this question yesterday, and I can point out that you said that Field Marshal Keitel, although he belonged to the Reich Defense Law he belonged to the Reich Defense Council, the Reich Defense Council had never been constituted. That, you ought to know, because you were chairman of that Reich Defense Council, according to the law, is that correct?

A I have stated clearly that I never attended or called a meeting.

THE PRESIDENT: You know, do you not, that the Tribunal is directed to hold an expeditious trial and for that reason they are not going to hear cumulative evidence? The Defendant has already given us an answer to the question you have just put to him. The Tribunal do not wish to hear the same answer given again.

DR. NELTE: I have not seen yesterday's transcript yet, and --

THE PRESIDENT: You were in court and you can take it from me that the answer was given.

DR. NELTE: The questions are not always as clear -- and the answers -- if one reads the transcript.

Q Can you tell me whether Field Marshal Keitel was a Minister?

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A He was not a Minister. He had just the assimilated rank of a Minister.

Q Did he have the right to take part in Cabinet meetings?

A Not by himself, not as such, but in questions which referred to his work he could be called by the Fuehrer to attend Cabinet meetings.

Q Keitel was a member of the Ministerial Council for Reich Defense. Did that make him a Minister?

A No, it remained the same. He had the rank of Minister. He could not attend Cabinet meetings of the Reich Cabinet because he only became Chief of the High Command in 1938 and at that time there were no Cabinet meetings.

Q The Prosecution has also asserted that there had been a group of three, consisting of the Plenipotentiary for Economy, Plenipotentiary for Administration and the Chief of the OKW. Can you tell us something about that

A I know nothing about it.

Q The Prosecution has accused Field Marshal Keitel of having been a political General. Do you know anything about that?

A The Generals in the Third Reich had no right to participate in any political activity. The only exception -- and that was due to the peculiar nature of my position -- was myself, being at once soldier, General, along with policy -making as a politician. The rest of the Generals, as the Fuehrer very clearly pointed out, had nothing to do with politics.

The General who was most interested in politics was the late Field Marshal von Reichenau, and that was the reason the Fuehrer, in spite of his personal sympathies and the strong positive attitude of Reichenau toward the National Socialist Party, rejected him, the reason the Fuehrer refused to make him Supreme Commander of the Army. The Fuehrer did not tolerate any political Generals.

Q But we cannot fail to see that in the so-called decrees directly political means were included, and that such decrees were sometimes defined by Keitel.

A Decrees were principally Fuehrer Decrees, because they contained large

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general directives. The preamble of an important decree was made up of political requisites, so that it should be explained why the Fuehrer had decided upon a military action. But that has nothing to do with the fact that a General was a politician.

Q The Prosecution has frequently mentioned that the Defendant Keitel had occasion to make state visits, formal visits, or hold receptions where Ministers were present, and from that, the Prosecution has drawn the conclusion that he was a political General.

A When the Fuehrer as Chief Of State received foreign missions, it was understood that the chiefs of the most important offices attended -- the Chief of the State Chancellery or the Reich Chancellery, depending on who came; and the Chiefs of the High Command were there because questions would be discussed for which the Fuehrer needed military material of some kind. And then, of course, it was also a matter of ceremony. Whenever I had important visitors myself, my military staff surrounded me.

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Q Tell me -- may I then say that Field Marshal Keitel was present but did not participate?

A Whether he participated or not, at least not in any decisive manner.

Q On the occasion of President Hacha, the Prosecution mentioned that Keitel had exerted pressure on Hacha by threatening the bombing of Prague.

A I said yesterday that I made that statement.

Q Yes, I know that; I just wanted to clarify it.

I should like to ask a few questions concerning the terror fliers. Do you remember that about the middle of July 1944 -- in June 1944, when negotiations about that question between the various departments took place, that you were waiting with Field Marshal Keitel and discussed that question?

A I can not say whether that was at the Platteh of, but at any rate, I have frequently talked to the Field Marshal about that.

Q It is important in this connection to clarify whether the defendant Keitel at that time approached you and stated that he was against the idea of lynching, which was demanded by the Party.

A He said that frequently, and we were of the same opinion.

Q Did the defendant Keitel at that time also state to you that he considered an official warning or a note -- and I remind you of the case of Dieppe- that he considered that appropriate?

A About that question, it seems to me we spoke frequently. I was of the opinion that in the case of definite terror fliers -- that is to say, those who violated the orders of their own superiors -- that there we should have trials. Keitel said that was hard to differentiate and to carry out. It would be more appropriate to send a note that if that were not stopped, measures would have to be taken, and also other people were of the opinion that first negotiations should take place.

DR. NELTE: Mr. President, on the occasion of my application, I sought to have Field Marshal Goering characterize Field Marshal Keitel. In the session of 25 February, it was determined that this characterization should be submitted in the presence of Reichs Marshal Goering. Am I now permitted to read this characterization which you have received in the original, to read it now, or may I refer to it as in evidence if I just submit it?

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I ask this question because part of the description which is contained in the affidavit has already been expressed by the witness in this interrogation.

THE PRESIDENT: What is the document that you are referring to? What is the origin of it. Is it a document drawn up by the defendant Goering?

DR. NELTE: An affidavit signed by the defendant Goering, entitled "Description of the Character of Field Marshal Keitel," It is announced in my application as an affidavit, and much which is contained here has already been expressed by Reichs Marshal Goering.

THE PRESIDENT: The defendant Goering is giving evidence on oath. Therefore, nothing in the shape of an affidavit ought to be put in. If you have any questions of him, which he has not already answered about the defendant Keitel, you may put them now, It is inappropriate to put in a written, sworn statement, when you have a defendant giving evidence under oath.

DR. NELTE: In the session of 25 February 1946, this affidavit was approved, with the explanation given that it would shorten the proceedings if an affidavit would be read and the witness could say then, "That is correct." I have a copy of an extract from the transcript of that session, in case the Tribunal should not remember it.

MR. JUSTICE JACKSON: May the Tribunal please, I should not care to object to this upon the ground that it is written, because I think there are occasions when the writing out of the testimony of a witness might be more expeditious than their examination.

I object on the ground that it does not get us anywhere when you have it in. It starts off, "Keitel gives the impression of a military man, an officer of the old school." That is not testimony that gets us anywhere. I admit that. He always impressed me that way. "His philosophy is dominated in the main by militaristic ideas and concepts."

Let Keitel give a picture of his mind, if we must have it. I think an examination of it must show that it consists of matter that has been covered or consists of matter that never ought to be interrogated about of another witness. I object to it upon the ground that it has no probitive value.

THE PRESIDENT: As you are aware, Dr. Nelte, any decision which the Tribunal made about documents was expressly made provisionally and with the condition that the decision about the relevancy of the document should be made when the

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document is produced. If the document had been produced before the Tribunal, they would have been able to look at it. They have not seen the document.

The document appears, as Justice Jackson says, to be not a document which has any evidential value at all, and as the defendant is at present giving evidence under oath, the Tribunal will not look at the document.

DR. NELTE: Mr. President, if the Tribunal has examined this document and then found out that it is irrelevant, of course I agree with that decision, but it seems to me as if the Tribunal --

THE PRESIDENT: We are not preventing you from asking any questions which may be relevant of the witness, but we do not desire to read another document from the same person who is giving testimony.

DR. NELTE: I forego, therefore, the submitting of this document.

BY DR. THOMA (Counsel for Defendant Rosenberg):

Q Rosenberg, until 1940, was chief of the Foreign Political Office of the NSDAP, and in this function, did he, or otherwise personally, did he have an influence on the foreign political decisions taken by Hitler?

A I believe that the Foregin Political Office of the Party, after the seizure of power, was not once consulted by the Fuehrer on foreign political questions which arose within the Party could be dealt with centrally. In detail I would not be informed about the methods of that office, but Rosenberg was not consulted, as far as I know, after the coming to power in foreign political questions.

Q Therefore, you could not give us any details, could you, on whether Rosenberg had a determining influence on Hitler in the Norwegian question?

A That I do not know. I have said yesterday anything which I know concerning the question of Quisling and Rosenberg.

Q Was your attention called to the fact that Rosenberg called for the persecution of the churches by the police?

A He could not say anything in favor of the persecution of the churches by the police because he had nothing to do with the police, and I would not have permitted him to say anything about it.

Q Could you tell us -- do you know anything as to whether Rosenberg suggested or asked you to evacuate Jews from Germany, say, to Lublin?

A Rosenberg never spoke to me about that.

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Q Did Hitler express to you his satisfaction as to the fact that Rosenberg had not protested against the non-agression pact with the Soviet Union?

A One can not express it in this manner -- that Hitler had stated his satisfaction -- because if Rosenberg had protested, Hitler probably would have expressed his dissatisfaction in a very unmistakable manner. He has stated, however, that it seems that even Rosenberg understood that political step.

Q Did Rosenberg, as Minister for the occupied eastern territories, have any influence on the Arbeitseinsatz, or manpower, question? Was he in a position to avoid the use of eastern manpower?

A A certain coordination or cooperation concerning manpower must have existed between the offices of Rosenberg and Sauckel, but not in the sense that Rosenberg could have prohibited the recruiting of eastern workers in contravention of the Fuehrer.

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Q Do you know that Rosenberg has intervened with Hitler for cultural improvements in the Ukraine?

A I was present once when Rosenberg spoke about the different treatments in the occupied Eastern territories and of the cultural affairs of these people, and as much as I can remember the conversation dealt with the continuation of an established university in Kiev. The Fuehrer agreed in his presence, I believe, but after he was gone, Rosenberg, the Fuehrer told me "That man has peculiar worries. We have more important things to take care of now than universities in Kiev." That I can remember.

THE PRESIDENT: Perhaps we had better adjourn now for ten minutes.

(A recess was taken)

Doctor Seidl; One moment, I want to speak to Doctor Nelte first.

Doctor Nelte, in view of your application with reference to this document which is called "Characteristics of General Field Marshal Wilhelm Keitel", the Tribunal has investigated that matter and have referred to page 4987 of the shorthand notes, which possibly you may have had in mind; but you seem to have failed to notice that this very document "Characteristics of Keitel" was denied in the order of the Tribunal in paragraph 2, which contains the position of the Tribunal, after the argument in court, and which is set out on that page of the shorthand notes to which I have referred. Therefore, in the opinion of the Tribunal, you have no right to offer that document which the Tribunal had already denied.

DR. NELTE: Mr. President, I don't have the entire minutes of the session before me, but I do know that this evidence was refused with this reason; that in such cases the affidavit is not to be submitted if the witness is called personally, and that seems to be the case at this time. For that reason Sir David Maxwell-Fyfe, in quoting the number of the document and my document book, stated the following: "The Tribunal may perhaps remember that in the case of the witness Doctor Blaha the practice was followed of questioning the witness", and this affidavit belonged to these documents.

THE PRESIDENT: Dr. Nelte, I am quite aware of that and I have already

referred you to the exact page of the transcript which I have consulted, but defendants' counsel must be perfectly well aware that the Tribunal has given no decision in open court upon these applications for witnesses and documents, and the Tribunal made it perfectly clear that they would afterwards consider the applications that had been made, and in each case a written order, which was perfectly clear, has been issued to the defendants' counsel, setting out the witnesses who are allowed, the witnesses who are denied, interrogatories that are allowed, and the interrogatories that are denied, the documents that were allowed and the documents which had been denied. In paragraph 2 of the order which was made in the case of Keitel the second document which is denied is "The characteristics of Keitel." Therefore, in the opinion of the Tribunal that document should never have been offered. That is all.

H0085 - 0022

DR. NELTE: I am just trying to point out why I arrived at this assumption that despite the refusal of the affidavit the material could be used in the presence of the witness.

DR. SAUTER (Counsel for the defendants Funk and Von Schirach): On behalf of the defendants Funk and Von Schirach, I request to be permitted the following questions. First of all, pertaining to Funk.

Witness, the defendant Funk entered the party in the summer of 1931. At that time, as you know, he was the editor-in-chief of the Berliner Boersenzeitung. Do you know that on the basis of his capacity he received prestige in the press or in the circles of the German Economic Reich?

A I know that at that time Funk and his economic articles were highly honored and I know that he had many connections in the economic circles.

Q Witness, you have heard that Funk is accused of the fact that through his activities he was operational in supporting the taking over of all power of the Party, and I am interested to know from your lips whether Funk, before the taking over of power by the Party, played any role in the Party, or is it correct to say that after the giving up of the editorship of the Berlin paper, he had edited a so-called economic political survey not only for the Party but for all circles, including the other parties? What do you know about this matter?

A I would like to reply briefly to this very lengthy question. Before the taking over of power I know only of the activity that is mentioned of the editor of the Boersenzeitung, and when I talked with economic people it was mentioned. After the taking over of power I was told generally that Funk had been in the Party prior to that. His connection with the Party and his activities were not of tremendous significance or I would have noticed it and it would have been brought to my attention. So far as the economic political survey is concerned, I know nothing about that.

Q Then after the taking over of power, he became the Press Chief of the Reich Government. Do you know that?

A Yes, I do.

Q Then he became State Secretary in the Propaganda Ministry. Do you know about that?

A Yes, I do.

Q I am interested to know what his activities were in connection with his capacity as Press Chief. Did he, in any way, influence the decisions of the

H0085 - 0023

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H0085-0025

Reich's cabinet?

A When Funk was made Press Chief ---

(At this point there was a mechanical interruption.)

Q I would like to repeat the question because it was not coming through. My question was to this effect:

At the time that the defendant Funk was engaged as Press Chief in the Reich's Government, that is, after the taking over of power, had he any influence at all on the decisions of the Reich's cabinet?

A He had no influence of any sort on the decisions of the Reich's cabinet, for his task was of a different nature.

Q Then Funk became State Secretary in the Propaganda Ministry, and in this case I am interested to know from your lips whether, while exercising this function in any way aside from those of Mr. Goebbels, so far as propaganda policies were concerned, what his tasks were while he was in the Ministry.

A He became State Secretary because the Propaganda Ministry was the Chief Secretary for the Press, that is, for checking over and treating press matters. But purely propaganda activities were carried on from the beginning by Goebbels. Funk was purely a press leader, and he was called in purely for organizational purposes in the Ministry. He was to bring in new members of the press, new papers to support the press, and his experience and knowledge along these lines were to be utilized.

Q Then, when Dr. Schacht retired from his office in November of 1937, Funk, in the year 1937, that is, November 1937, became his successor as Minister of Economics in the Reich? His appointment took place in November of 1937 but he entered the Ministry in February 1938 and assumed his official duties at that time. Can you tell us why that was so, and also who took care of the Ministryof Economics in the interim?

A In treating or dealing with the Four Year Plan, I personally directed the Ministry from November 1937 to February 1938. I directed the Ministry of Economics so that the development of other economic offices which had any connection with the Four Year Plan could be brought back into the Ministry of the Interior, so that I could still give directives to this Ministry.

Q In a similar matter the Office of the General Plenipotentiary seemed

H0085 - 0026

to have the same trouble. Schacht had been relieved of the same office in November, 1937. His successor as Plenipotentiary for Economics, Funk, was appointed in the year 1938. What were the reasons for that?

H0085-0027

A That he was made General Plenipotentiary in 1938 was based on the reason that in 1938 he took over the Ministryof Economy. According to the old regulations, the General Plenipotentiary for Economy was identical with the Ministry of Economy. At that period this was just a matter of form, and I said that from the minute when I took over the Four Year Plan actively, I personally, de facto, was the real General Plenipotentiary for Economy.

I suggested that this office should be abolished, but, as is often the case, some officers remained for purely prestige reasons, things which really do not have any significance any longer. The Plenipotentiary for the Four Year Plan was the sole General Plenipotentiary for the entire German economy, since there could be no two such men, and, as a matter of fact, one was just a figure on paper.

Q If I may draw this conclusion -- and I wish you would answer this -- it would be that Dr. Funk, in his capacity as General Plenipotentiary for Economy and as president of the Reichsbank, had to follow your directives as head of the Four Year Plan.

A Naturally, according to the Plenipotentiary powers which I had, he had to comply with my economic directives as far as the Ministry of Economy and the Reichsbank were concerned. That was the reason for the change, because I could not follow this procedure with Schacht, but from the beginning Funk understood my wishes. The directives which Funk received in his capacity as Minister of Economy and president of the Reichsbank are my responsibility.

Q Witness, you perhaps remember a birthday letter--perhaps it was a week before the Polish campaign, I believe around the 25th of October--which Funk sent to Hitler, in which he thanked the Fuehrer for something or other. In this letter Funk mentioned that he had prepared and executed certain measures, which inthe case of war would apply in civilian matters and in financial matters. You perhaps remember this letter, because it has been read already.

A Yes.

Q Now, do you remember when you entrusted Funk with these special duties? This letter is dated about the 25th of August 1939, and at what time were these duties given over to Funk by you?

A Just as military mobilization, or perhaps I had better say preparations for mobilization, have to be continued and have to keep pace with the political

H0085-0028

situation, whether it is tense or not tense or just how the changes go, in the same way, as I mentioned in my concluding remarks yesterday, economy and matters of economy kept pace in the same way.

In this field preparations for mobilization were decreed by me, and it was the duty of the president of the Reichsbank and of the economic factor also to take all preparations which would put me in the position in the event of a war to have the utmost security for the German people. The exact period I cannot tell you, for it seems to be a general basic directive which was always present.

Q Witness, what duty, as far as directives were concerned, did Funk have for the leadership of economy in occupied countries?

A As far as details are concerned, I do not remember exactly at this time. The general directives he received from me would show just what directives he would have to interpret for his own purposes in the occupied countries. What further directives he gave out as having been transmitted from me I cannot say, but it was all my responsibility.

Q Is it correct that the Four Year Plan in the occupied countries had special plenipotentiaries and organs who had to carry out your directives, excluding Funk?

A In a part of the occupied countries it was so. In other parts I used the existing offices in the occupied countries, and if I considered it necessary I issued directives to the Ministry of Economy, and they had to transmit and issue further orders in the countries concerned.

Q Then during the war the Ministry of Armament was created, I believe in the spring of 1940. Is it correct to say that during the course of the war, in increasingly large proportions, the spheres of jurisdiction of the Minister of Economy, and at the end the entire civilian production, were transferred so that at the end the Ministry of Economy was really a Ministry of Commerce?

A On my suggestion, the Fuehrer created an Armament Ministry, and the then Minister Todt was the head of it. This purely munitions ministry became an armament ministry, under Minister Speer. Gradually, more and more spheres of activity were transferred to this Ministry. The Ministry for Armament was at the head of economy, and everything else was subordinated to this ministry. There were some of the tasks transferred to the Armament Ministry from the Economic Ministry. The entire production was turned over to this ministry, and at the end the Ministry of Economy on a large scale was really a matter of form and had

H0085-0029

just subordinate departments left.

Q Now, I have a final question regarding Funk. The question is in connection with the matter of central planning, that is, in connection with the question of foreign workers.

I am interested in knowing what you can tell me. Was Funk present at the meetings of this Central Planning Board at the end of November 1943, and never before that time? Do you know about that?

A I know the workings of the Central Planning Board, but I never interfered in the actual working. I cannot tell exactly when Funk entered into this Board,

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but as far as the securing of foreign labor is concerned he had nothing to do with that.

DR. SAUTER: Mr. President, if you will permit me, I have several questions for the Defendant von Schirach.

BY DR. SAUTER:

Q Witness, do you know anything about this matter, whether a department of the "Flying HJ" were trained?

A The "Flying Hitler Jugent, HJ" were interested in air training, and after this training was completed these men were taken into the National Socialist Flier Corps, the former Reichs Luftsport Verband, and were then further trained in aircraft flying.

Q Then another question: As long as von Schirach was head of the Hitler Youth, did any conferences take place between you and him which concerned themselves with the question of military training, or pehraps a pre-military training, of youth in flying? Did you have any such conferences, or didn't you?

A Whether we perhaps discussed these matters on occasion I cannot tell you. Officicially there were no conversations, because the position was entirely clear. The Hitler Youth were interested in gliding, and after they had received preliminary training they were taken into the flying companies.

Q Witness, do you remember we saw a sketch on the wall as to the Reich Cabinet and how it was made up, and this diagram showed in the lower half other participants. Among them were von Schirach, along with Buhle, Bopitz, Dietrich, and Gehrecke. For that reason I would like to put the following question to you: Was Schirach ever a member of the Reichs Cabinet, or what functions or rights did he have in this connection?

A The Reichs Cabinet as such consisted solely of the Reichs Ministers. We differentiated between two kinds of sessions, regular Cabinet sessions and ministerial directors sessions.

As to the first, in the Cabinet sessions were present, in the normal course of events, the Ministers and their State Secretaries. In some cases, from the special departments or ministries, ministerial directors or higher officials could be called in for short discussions. Then there were

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so-called top Reich offices, and among those was the leadership of the Reichs Jugend, the Reichs Youth. If a question of this leadership was to be discussed in the Cabinet with the purpose of legislating, then Schirach as leader of the Youth Movement, if he had been informed on this matter, could request to be called into this meeting; and the Chief of the Reichs Chancellory could command him or ask him to come in for the reason that you have just mentioned.

Regular, normal sessions of the Cabinet did not include the people that I have just mentioned. I believe I took part in all of these sessions, and I know that von Schirach never took part. In contrast to that were the Council meetings in which only Reichs Ministers could be present without anyone else attending.

H0085-0032

Q Then, I am referring to the period of time after the fall of Mussolini, when Badaglio took over power of Government in Italy. Do you remember, witness, that at that time, von Schirach sent a wire to you and made certain suggestions to you?

A Yes, I remember that.

Q Please tell me about that. What did he suggest and what were his motives and purposes?

A He suggested that I tell the Fuehrer to make a change in the Foreign Office and to replace Ribbentrop by von Papen.

Q Then, my last question for von Schirach. Do you remember, witness, another letter which the Defendant Schirach, and as far as I know, in the spring of 1943, wrote? It was a letter which had been motivated through a letter of Bormann's and so that you will know just which letter I have in mind, I will give you the connection in brief. Bormann at that time wrote to all Gauleiters and according to that, the Gauleiters were to report whether they had any connection abroad with foreign countries. Schirach knew at the time that this letter wasmeant only for him, for the other Gauleiters had no relatives in other countries. Schirach at that point wrote a latter which, as far as I know, had wrote, and which you intervened allegedly in favor of von Schirach. Please clarify this letter, what kind of letter it was, what endangered Schirach and what you and others did to prevent this danger to von Schirach?

A I must correct and I would like to say that I know this incident exactly. This letter of Bormann's was not directed to the Gauleiters to know whether they had connections with abroad. Bormann directed, according to a directive of the Fuehrer, a letter to all Gauleiters and it was not a matter of form and was not meant only for von Schirach. It was meant for all, and in that sphere of influence they were to check the political leaders to know whether one of their co-workers or political leaders, which were subordinate to them, had relatives or other connections abroad, so that through this, the individuals might have conscience conflicts so that their reliability might be questioned. It was a general directive of the Fuehrer and it was meant also for the Officer Corps and could not be applied solely to the case of Schirach. I was at headquarters when Schirach's letter

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arrived and gave Bormann's letter to the Fuehrer. Schirach said, before he would take any steps towards his collaborators or subordinates, he would have to have a clarification on the part of the Fuehrer as far as his own person was concerned, and now in his letter mentioned his relatives abroad, some of whom were living in the United States of America, and these were relatives on his mother's side. In his letter he also said that his connections with his relatives abroad was a very cordial one and he wanted to know whether, among these prevailing conditions, he could remain as a Gauleiter and whether his position was still tenable to the Fuehrer. At that time the Fuehrer had not been kindly disposed to von Schirach for several months and had already considered retiring him from his office. At this opportunity he said -- and that is how I came into possession of this letter -- he gave me this letter and said "Schirach seems to make plans for saving himself in the future. I have mistrust of him;" then very definitely, in the presence of Bormann, I told the Fuehrer that such mistrust was entirely unfounded; that I could not see his position as far as von Schirach was concerned, and von Schirach had done the only decent thing he could do before he had taken steps to dismiss any of his subordinates; that he had wanted to clarify his own position, since his position was known, and that I did not think von Schirach had ulterior motives in writing the letter.

Q Then, witness, in connection with this letter, from other sources rather strange suggestions for proceedings against Schirach seemed to have been made?

A I know that Bormann and Himmler were against Schirach and on the basis of this letter, on the strength of this letter, and he tried to give this letter an entirely different interpretation and wished to motivate the Fuehrer to call him, call von Schirach back and to eliminate him, but just how far the suggestion of Himmler went, I do not know, or whether he meant to have him apprehended. I heard about these things from other sources later on.

DR. SAUTER: Your Honor, I have no further questions.

DR. KRANZBUEHLER: Dr. Kranzbuehler, counsel on behalf of Doenitz.

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BY DR. KRANZBUEHLER:

Q Reich Marshal, when did you get to know my client?

A For the first time I met Admiral Doenitz in his capacity as Admiral and Commander of the U-Boats, I met him during the war, in fact, I remember that was in 1940, and I met him at a conference in my special train, I believe, in France.

Q Were you concerned with military or political questions?

A Purely military questions were concerned and how far the Luftwaffe for the future could do reconnaissance for U-Boats in the Atlantic and the then Admiral Doenitz complained that reconnaissance was too weak and it was only sporadic and requested me urgently to strengthen same and as far as I remember, to have reconnaissance increased by 30%.

Q Before Doenitz was made Commander in Chief in 1943, did you have further conference with him?

A No, I did not.

Q As Commander in Chief of the Air Force, did you put in the Seenot plane (emergency sea plane) plans to save flyers who have been shot down in the Channel?

A There were rumors that this aircraft was put in to save flyers who had to land in the Channel, in the English Channel, as the decree shows, and that decree applied to German flyers as well as Allied flyers.

Q Can you describe these planes?

A These planes were, as far as I remember, they were marked with the Red Cross.

Q Were they armed?

A Not at first.

Q And how were these emergency planes treated by the British?

A There were some cases in which they were not molested but there were any number of cases in which, while they were doing acts of mercy, they were shot down. These cases came to be increasingly larger and more numerous and I said it would be more expedient not to use the Red Cross as a mark any longer, to have these planes armed and to try and save our comrades from the ocean nevertheless.

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We had tremendous losses in these sea emergency planes work.

Q Were emergency buoys established in the Channel to save people?

A Emergency buoys were established in large numbers. There were cables to which the fliers who had been shot down could cling, and food-stuffs and water and other materials were put on these buoys also. There were also small rafts which the fliers could board. There he found food, drink, first-aid kits, and blankets.

Q These emergency buoys, how were they treated by the British?

A They were treated differently. Some remained; other were destroyed.

DR. KRANZBUEHLER: I have no further questions.

BY DR. EXNER (Counsel for Defendant Jodl):

Q Witness, do you know that in the year 1942 there was a severe conflict between the Fuehrer and General-Colonel Jodl?

A Yes.

Q Do you know that at that time Jodl was to be replaced?

A The conflict arose through the crisis in the Caucasus. The Fuehrer accused Jodl that no concentrated push had been used in the region of Tuaxe; that he had instead taken a different route through passes, and this operation near Elbros the Fuehrer did not consider. Jold said that this matter had been discussed with him and that it had been approved by him. The Fuehrer attacked the commander-in-chief of this sector. Jodl covered for him. In this connection there was an extremely high tension. The Fuehrer told methat he wished to replace Jodl. The tension was so extreme that from this moment on, as far as I remember, the Fuehrer left the meeting place and from then even ate his meals alone, which had not been the custom before, and for a period of time would not shake the hand of this gentleman. It was just a minor incident in the great tension which took place.

As successor to Jodl, von Paulus was considered. The Fuehrer had special confidente in von Paulus. Just why this change was not made, I do not know exactly. I assume that in this case, despite all tensions, the Fuehrer always decided that it was very hard for him to get used to new faces, and that he did not wish to make a change in his direct surroundings

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He preferred to continue working with men whom he did not like, if they had been in his immediate surroundings, rather than to change.

In the course of years, his confidence as to the tactical ability of Jodl grew, and at the end he had complete confidence in his tactical capacity. As far as personal relations were concerned, they were never especially close.

Q You know, witness, that in the year 1945 it was considered to denounce the Geneva Convention. Do you know what Jodl's attitude was at that time?

A Perhaps in February 1945, when Minister Goebbels made this suggestion to the Fuehrer. This suggestion was contradicted by all of us with the utmost vehemence, but the Fuehrer for days might be inclined and always referred back to this matter to cancel this Convention, or to renounce it. His motives, strangely enough, were the following: that in the East there had been too many serious killings, and it was not easy for the troops. The Fuehrer was of the opinion that if the troops knew that in captivity the Geneva Convention would not protect them they would fight more strongly and would not react to the extensive hostile propaganda as to how well it would be for them to lay down their weapons, if they could not react to this propaganda. Jodl, of course, participated in preventing the Fuehrer from denouncing this agreement, that it would create great excitement among the German people and that it would create many cares for the men who were prisoners of war abroad.

Q There is a further question: Before the Norwegian campaign, Jodl entered in his diary, and I believe it has been mentioned on occasion here: The Fuehrer is interested in finding a motive. He is looking for an explanation. This is misquoted and is not correct. He was looking for a motivation.

A As far as that point is concerned, my memory is very complete and very precise, and I can tell under oath that a coordination of the concept "motivation" or "explanation" is not proper at this point. The case was the following:

The Fuehrer knew exactly, and we knew with him and had extensive intelligence and authoratative reports, that Norway was to be occupied by the

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Allies, England and France. I have already mentioned this point. I mentioned it several days ago. In order to prevent this, the Fuehrer wanted to act first, and now he talked about this matter. The motivation of the English and French attack was clear to us, but we had no way of proving it to the outside, and he was now looking for a basis. But it would have been better for Jodl not to say at first that he preferred motivation. He should have said, as the Fuehrer meant, that he was looking for proof or evidence, which we had, and that to attach value and weight to this evidence was the problem.

The second problem was that the foreign office had to make the necessary preparations for this step. In the case of Norway, the Fuehrer had not advised the foreign office of this step. I believe 24 of perhaps 48 hours in advance they were notified of this step. At this point he was not interested in telling them at all. He kept this plan of the utmost secrecy, and I remember that I, as commander-in-chief of the Luftwaffe, was initiated into this plan at a very late point. This was the second reason why he himself was concerned to find a motivation for the attack. These were the two reasons, and I would like to state again that matters would have been clarified if one had said "The Fuehrer is looking for evidence", rather than motivation.

Q If I remember correctly, you mean evidence for the convincing that the British has the intention to occupy Norway?

A Yes. We had that intelligence and those reports, but the final written evidence we received much later.

Q The Fuehrer did not doubt this?

A No one of us doubted this for a minute. Later we received these documents of evidence.

BY DR. KUBUSCHOK (Counsel for the Defendant von Papen):

Q Is it correct that Hitler authorized you to direct all negotiations regarding the formation of the Hitler government, which arose in 1933, and that you alone had the task?

A That is correct, and I have already explained this the other day.

Q Is it correct that in January 1933 you, for the first time, talked about the formation of a government with von Papen?

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A For the first time I spoke with von Papen on a Sunday. It was a week before the government was formed.

Q Then, if von Papen, between the first one had a meeting with Schroeder and had further negotiations until the 22nd of January, then these negotiations would have been taken through you and you would have known?

A Yes; that is correct, because the Fuehrer at that time was at Munich and I was the only authority at Berlin for the formation of this Government. Then, at the beginning of January, we did not know that within a reasonable length of time a government would have to be formed by us. Other negotiations were taking place, but they did not concern von Papen.

Q Was the forming of a new government inevitable for Hindenburg in the middle of January, because von Schleicher had no parliamentary backing, and that all of his efforts were frustrated because of a friction in the NSDAP, and Schleicher in this connection failed to have parliamentary backing?

A In large measure I believe I have mentioned that Schleicher had no parliamentary majority, and, when he tried to split that, Schleicher was excluded by the Fuehrer and had no following. After the frustration of this possibility to receive a majority, Schleicher had to rule without parliament, and that he could do only with extreme authority given to him by Hindenburg;

H0085 - 0039

after he had told him previously that he would be able to get a majority and that he did not need this same authority which von Papen had requested. The Reich President decided to do those things which I set forth the other day.

Q Is it correct that von Papen gave up the presidency pf the Ministry of Prussia on the 20th of April, for through the elections of March 1933 the NSDAP had had a majority in Prussia, and, therefore, the Landtag was to make you minister president?

A It is not entirely true, for the Prussian Diet did not have a minister president which was to be elected at that time, but the fact is that in the Prussian Diet the NSDAP had the absolute majority. It made von Papen mention to the Fuehrer that he would agree that he, von Papen, would give the presidency of Prussia to me.

Q Now, I have a last question: You mentioned yesterday that as the Chief judge of the Luftwaffe you gave much clemency toward people in Belgium and France who had been adjudged. Is it correct that von Papen on occasions brought wishes of relatives of thosewho had been sentenced to you, and that he gave as the reason for the wishes that he was interested in a solidarity among people and did not wish to convict them even if they had been militarily correct, that poor relations would arise, and that you were interested in carrying out the wishes of von Papen?

A I remember that on occasion--I remember one case especially, for a prominent name was concerned--that I received requests from von Papen, as to whether the person could not receive clemency, because the people who were concerned had aided flyers to escape. In these cases I respected the wishes of von Papen in large proportion. I do not remember the reasons.

BY DR. BALLAS (Counsel for Defendant Seyss-Inquart):

Q May I be permitted to put several questions to the witness. We are concerned with the well-known telephone conversation of the 5thof March, 1938, between Berlin and Vienna, which took place at that time. Is it correct, witness, that Dr. Seyss-Inquart, in June of 1937, came to office and then visited you with State Secretary Keppler?

A I do not remember the dates, but I do remember the visit.

Q Did Dr. Seyss-Inquart, at that time, utter the opinion that the Austrian National Socialists should be entirely independent of the Reich Party of the same name?

H0085-0040

A Wishes in that direction were mentioned by him, for he was interested in working independently in the cabinet.

Q Tell me whether this is correct: The Austrian National Socialists in Austria were to have permission to keep relations between Austria and Germany and have an independent Austria?

A As far as Party matters are concerned, I do not remember exactly just what was discussed. The main thesis of having Austria independent and yet on the side of Germany was repeatedly uttered by Seyss-Inquart, and, as I said the other day already, it seemed to me not extensive enough, because I knew the attitude of Seyss-Inquart. I must say frankly that I was a little distrustful of his attitude, and on the late afternoon of that day, when these telephone conversations took place to Vienna, as far as the annexation was concerned, matters would take their proper course. I would rather have sent someone else. I considered Keppler too soft. But the Fuehrer wished that if anyone had to be sent it should be Keppler.

Q Is it correct that Dr. Seyss-Inquart, among others, motivated his attitude in mentioning the advantage to Germany of having two states?

A That is exactly right. He did say that. I was of a completely different opinion. I would rather have the German attitude represented more strongly by one rather than by two, where we would not be certain that the others would be interested in our interests.

Q On the 11th of March, 1938, and the days prior to that, did you have another telephonic or other communication with Seyss-Inquart, that is, aside from the prior mentioned telephone conversation?

A As far as I recall that, I cannot say this with assurance. I talked with him or one of his men. These telephone conversations were on the 11th, a Friday. On Monday or Tuesday prior I talked with him or one of his men of the impression that had been created. I remember this, but I cannot say for certain under oath.

Q The Prosecution has submitted document PS 2249, regarding the conversations between Vienna and Berl in in March of 1938. We see, first of all, that Dr. Dietrich and Keppler, who was in Vienna at the time, at the hour of 2154 in the evening, had the agreement of Seyss-Inquart with your wire, which he dictated before and which had been transmitted through Keppler. At that time, had the

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command for marching in been issued?

A The other day I set forth that the order for the marching in had been issued and had nothing to do with the wire as such, and it really mattered not atall whether he was in agreement. The Fuehrer and I had responsibility for the marching in.

Q Then the marching in would have occurred without the telegram?

A Yes. That is a matter of course.

Q What was the purpose of this wire? Was it to give a for eign political basis?

A I have already mentioned that in detail.

Q Do you remember, witness, that in the night from the 11th to the 12th of March State Secretary Keppler, on the order of Dr. Seyss-Inquart, called Berlin not to carry through the marching in?

A I remember this wire very distinctly. I was unusually upset and enraged that a senseless telegram like that would disturb the rest of the Fuehrer, who wanted to go to Austria the next day. The attitude of the Fuehrer was blamed for putting through a telegram like that to the Fuehrer, and the wire should have been transmitted to me or because of me. I remember this wire and the utter impotence of this wire.

Q Then the Fuehrer declined?

A The Fuehrer was not in a position to decline in the request for the marching in had already started, and when a marching in of troops is once started it would take days to stop it. We might have halted the marching in at a certain point at the boundary, but it was not in our interest, and from this point on Seyss-Inquart did not have the fate of Austria in his hand, but the Fuehrer and I.

Q I have two questions regarding the Netherlands. Is it correct that alongside of the decree of the Fuehrer, which was given on the 18th of May, that Dr. Seyss-Inquart was made Reich commissar of the Netherlands, that there was another decree which was not published but which subordinated Seyss-Inquart directly to you?

A As far as this secret decree is concerned, I know nothing about it.

THE PRESIDENT: Put your questions more slowly.

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Q The Four-Year Plan, as far as the Netherlands were concerned, did it have a special and independent office in the Netherlands?

A I did not answer your first question, and I understood that you were going to put the first question once more, because it did not come through. As far as this secret decree is concerned, I know nothing about it. It would have been senseless, for a Reich commissar in occupied territories could not be subordinate to me separately. But, if you are concerned with subordination in this direction, as far as economic matters were concerned, it was a matter of course that the Reich commissar, as well as other Reich officers, were under my jurisdiction, of course, in all matters of economy.

As far as the second question is concerned, I can say I cannot tell you as to the details whether in occupied countries, and that means, of course, the Netherlands, here and there a direct representative of the Four Year Plan actually was there, or whether these directives were given through military offices or economic offices. As far as I can tell now, without referring to documents, in the Netherlands the situation was that the economic leader, Fischbeck (?), at the same time, which was logical, gave and executed the economic directives of the Four Year Plan. The Reich commissar or Reich commissioner would never have been in a position, as far as decrees from me were concerned, he could not have put them through. He could have mentioned them to me or to the Fuehrer, but there is no special connection in this regard.

THE PRESIDENT: The Tribunal will adjourn.

(The Tribunal adjourned until 18 March 1946, at 1000 hours.)